

Introduced by Senators Speier and Margett

February 21, 2003

An act to amend Section 11656.6 of the Insurance Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1007, as introduced, Speier. Insurance: workers' compensation policies.

Existing law authorizes an insurer to issue a workers' compensation policy insuring an organization or association of employers subject to specified conditions, including requirements that the organization or association file certain documents with the commissioner or a licensed workers' compensation rating organization relating to (1) the percentage of its membership engaged in a common trade or business, and (2) the naming in certain statements of members eligible for insurance. Existing law defines the term "common trade or business" for purposes of these provisions.

This bill would expand the definition of "common trade or business" to include specified types of manufacturing facilities.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11656.6 of the Insurance Code is
- 2 amended to read:
- 3 11656.6. An insurer may issue a workers' compensation
- 4 policy insuring an organization or association of employers as a

1 group if ~~such~~ *the* organization or association complies with the
2 following conditions:

3 (a) Files with the commissioner or a licensed workers'
4 compensation rating organization designated by him *or her the*
5 *following*:

6 (1) A copy of its articles of incorporation and bylaws or its
7 agreement of association and rules and regulations governing the
8 conduct of its business, all certified by the custodian of the
9 originals thereof;.

10 (2) A statement setting forth its reasons for desiring insurance
11 as a group;.

12 (3) A statement certifying that at least 75 percent of its regular
13 membership is engaged in a common trade or business, and an
14 agreement that ~~such the~~ percentage of membership will be
15 maintained during ~~such the~~ time ~~as that~~ a group workers'
16 compensation policy issued to ~~such the~~ organization or association
17 is in force;.

18 (4) An agreement that only those members who are engaged in
19 a common trade or business shall be named by the organization or
20 association in any statement to the commissioner, a licensed
21 workers' compensation rating organization, or insurer as eligible
22 for insurance as a member of the group, and an agreement that it
23 will immediately notify its insurer if any member of ~~such the~~
24 organization fails to remain a member in good standing in
25 accordance with the basic law, rules, and regulations of ~~such the~~
26 organization or association;.

27 (5) A statement in writing undertaking to establish and
28 maintain a safety committee which, by education and otherwise,
29 will seek to reduce the incidence and severity of accidents; ~~and~~.

30 (6) An agreement in writing duly executed stating that, if the
31 insurer notifies the organization or association of the nonpayment
32 of a premium by an insured member of the organization or
33 association within 60 days after the premium was due, the
34 organization or association may be liable to pay to the insurer the
35 amount of any past due premium ~~which that~~ does not exceed the
36 amount of the dividends that are due to the organization or
37 association or its members from the insurer.

38 However, ~~no-such~~ *this* agreement shall *not* be required, nor
39 shall an organization or association be liable for payment, unless
40 the governing board of the organization or association and the

insurer agree in writing to use dividends due for the payment of past due premiums. The organization or association shall promptly notify the insurer of the known insolvency of any member of the group plan, and shall request, upon learning of ~~such~~ *the* insolvency, removal of the member from the group plan. A copy of the resolution of the governing board of the organization or association authorizing the execution of the agreement shall be filed with the commissioner or a licensed workers' compensation rating organization designated by the commissioner and with any insurer issuing a group policy.

(b) "Common trade or business," as used in this article, shall mean:

(1) In agricultural enterprises, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classifications and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to farms; nurserymen; cultivating or gardening of flowers; and classifications embracing ~~such~~ other operations ~~as~~ *that* may be conducted by a nonprofit cooperative association composed of producer members and combinations of nonprofit cooperative agricultural marketing associations having a central organization composed of member associations.

(2) In the building and construction industry, operations in the construction or repair of commercial or residential buildings or in general engineering construction in which the principal payroll develops under any combination of the classifications applicable to ~~such~~ *the* construction or repair as they appear in the Manual of Rules, Classifications and Basic Rates for Workers' Compensation Insurance approved by the Insurance Commissioner. Commercial buildings, as defined in this paragraph, shall mean any nonresidential buildings.

(3) In the transportation and warehousing industry, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classifications and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to for-hire motor carriers subject to regulation by the Public Utilities Commission and warehousemen.

1 (4) In the timber and lumber industry, operations in which the
2 principal payroll of the employer develops under any combination
3 of the classifications of the Manual of Rules, Classification and
4 Basic Rates of Workers' Compensation Insurance approved by the
5 Insurance Commissioner as applicable to land clearing, logging
6 or lumbering, log, chip, and lumber hauling, planing or molding
7 mills, sawmills or shingle mills, veneer or veneer products
8 manufacturing, box or box shoo manufacturing, cabinet
9 works, door, door frame, or sash manufacturing and wood fiber
10 preparation. However, no classification applicable to for-hire
11 motor carriers under the provisions of paragraph (3) of this
12 subdivision shall be included in any combination of classifications
13 authorized by this paragraph.

14 (5) For public agencies providing industrial, domestic, or
15 agricultural water service, operations in which the principal
16 payroll of the employer develops under any combination of the
17 classifications of the Manual of Rules, Classification and Basic
18 Rates of Workers' Compensation Insurance approved by the
19 Insurance Commissioner as applicable to irrigation, drainage,
20 reclamation, or waterworks operations.

21 (6) For sheltered workshops and rehabilitation facilities
22 licensed pursuant to Section 1191.5 of the Labor Code, operations
23 in which the principal payroll of the employer develops under any
24 combination of classifications of the Manual of Rules,
25 Classification and Basic Rates of Workers' Compensation
26 Insurance approved by the Insurance Commissioner.

27 (7) For all other enterprises, operations in which the principal
28 payroll develops under a single manual classification or a
29 combination of classifications under which a group policy may be
30 issued pursuant to subdivision (d).

31 (8) *For manufacturing facilities as identified in Sector 31 to 33,*
32 *inclusive, of the North American Industry Classification System*
33 *(NAICS), operations in which the principal payroll of the employer*
34 *develops under any combination of classifications of the Manual*
35 *of Rules, Classification and Basic Rates of Worker's*
36 *Compensation Insurance approved by the Insurance*
37 *Commissioner applicable to establishments engaged in the*
38 *mechanical, physical, or chemical transformation of materials,*
39 *substances, or components into new products.*



(c) Except as provided in subdivision (d), “principal payroll,” for the purpose of this section, means not less than 51 percent of the total payroll for the preceding policy year or, in the case of an employer who has no preceding full year’s payroll, not less than 51 percent of his or her estimated annual payroll. Principal or estimated annual payroll shall not include the payroll of those employees set forth in the standard exceptions contained in the California Workers’ Compensation Insurance Manual of Rules, Classifications, and Basic Rates.

(d) An insurer may issue a workers’ compensation policy insuring an organization or association of employers as a group if, in addition to complying with the conditions set forth in subdivision (a), the organization or association has had at least 50 percent of its present membership for at least one year prior to the issuance of the policy, and not less than 75 percent of the payroll of each employer to be insured under the group policy developed under the same two manual classifications, or either of them, for the preceding policy year or, in the case of an employer who has had no preceding full-year’s payroll, not less than 75 percent of his estimated annual payroll develops under ~~such~~ *the* classification or classifications. However, no classification applicable to for-hire motor carriers under the provisions of paragraph (3) of subdivision (b) shall be included in any combination of classifications authorized by this subdivision.

